IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 694 of 1988

For Approval and Signature:

HON'BLE MISS JUSTICE R.M.DOSHIT

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KUMARBAI WD/O NADARSHA M. SHROFF AND OTHERS

Versus

JAYANT SHANKARRAO GATGE

Appearance:

1. Civil Revision Application No. 694 of 1988

MR RR MARSHALL for Petitioner No. 1

..... for Petitioners Nos. 2-8

MR UTPAL M PANCHAL for the Respondent

CORAM : HON'BLE MISS JUSTICE R.M.DOSHIT

Date of decision: 15/04/2005

ORAL JUDGEMENT

Feeling aggrieved by the judgment and order dated 29th August, 1987 passed by the learned Assistant Judge, Surat in Regular Civil Appeal No.66/1983, the appellants, plaintiffs in Small Rent Suit No.1110/1978 have preferred the present Revision Application under Section 29(2) of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947.

The petitioners are the landlords of the suit house bearing Nondh No.1168 situated at Surat. The ground floor of the suit house (hereinafter referred to as "the suit premises") has been leased to the defendant for residence for a monthly rent of Rs.40=00. The petitioners instituted Small Rent Suit No.1110/1978 in the Court of Small Causes, Surat for recovery of possession of the suit premises on the grounds that the suit premises was required by the plaintiffs bonafide and reasonably for their personal use and that the defendant had acquired a suitable alternative accommodation. It was alleged that the plaintiffs were a large family. For accommodation of the entire family they required the suit premises. It was also alleged that the defendant who was serving in the Baroda Rayon Corporation had been allotted a residential accommodation by his employer. However, the defendant refused to accept such residential accommodation and continued to occupy the suit premises. The defendant was also alleged to have caused nuisance to the plaintiffs.

The defendant contested the suit and denied the allegations made against him.

The learned trial Judge, by judgment and order dated 3rd February, 1983, dismissed the suit for possession and determined the standard rent of the suit premises to be Rs.40=00 per month. The learned Judge was of the opinion that the plaintiffs had sufficient accommodation in their possession to accommodate the entire family who were residing at Surat. It was also recorded that the two daughters in the family, the plaintiffs Nos.7 and 8 were residing elsewhere with their husbands; they were not residing at Surat nor did they require the suit premises. It was also held that the plaintiffs had failed to prove that the defendant was offered a residential accommodation by his employer which he refused to accept. The suit was thus decreed in favour of the defendant.

Feeling aggrieved, the plaintiffs preferred Regular Civil Appeal No.66/1983 which came to be dismissed on 29th August, 1987. Therefore, the present

Revision Application.

Both the Courts below have recorded that the first floor of the suit house bearing Nondh No.1168 and a loft of ten feet high ceiling was in occupation of the plaintiffs. Besides, the plaintiffs owned another house in the city of Surat bearing Nondh No.933. The said house was in possession of the plaintiffs and the plaintiffs were residing there with their family. There were some ten rooms and a loft in the said house bearing Nondh No.933. Thus, it has been held that amongst the plaintiffs they have some twelve rooms for their residential accommodation. Whereas, the defendant is in occupation of three rooms on the ground floor of the suit house bearing Nondh No.1168. It has not been proved that the defendant had been offered a suitable residential accommodation by his employer. The plaintiffs have thus failed to prove the bonafide and reasonable requirement of the suit premises for their personal use and have also failed to establish that the defendant has acquired a suitable alternative accommodation.

In view of the above referred concurrent finding by both the Courts below, no interference is warranted. The Revision Application is dismissed. Rule is discharged.

(Ms. R.M.Doshit, J.)

/sakkaf